

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GALE E. TENEFF,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

NO. CV-06-295-AMJ

ORDER DENYING DEFENDANT'S
MOTION TO ALTER OR
AMEND JUDGMENT

On June 6, 2007, Defendant filed a Motion to Alter or Amend Judgment (**Ct. Rec. 18**), seeking to amend the judgment entered in this case on May 24, 2007. (**Ct. Rec. 16**). The matter was not noted for hearing. Plaintiff did not file a response. After reconsidering the record and the pleadings filed herein, the court finds that the errors necessitate a remand for further administrative proceedings.

Defendant alleges that the court erred by (1) precluding the ALJ's step two assessment of Plaintiff's credibility; (2) applying the incorrect standard of review to the ALJ's step two finding, and (3) neglecting to apply the proper standard of review to the ALJ's medical evidence determinations. (Ct. Rec. 19 at 2).

1. Evaluating Plaintiff's Credibility at Step Two Defendant cites *Webb v. Barnhart*, 433 F. 3d 633, 687 (9th Cir. 2005): "Credibility determinations do bear on evaluations of medical evidence when an ALJ is presented with conflicting medical opinions or inconsistency between a claimant's subjective complaints and [her] diagnosed conditions." (Ct. Rec. 19 at 3). Plaintiff's treating physicians diagnosed a severe mental impairment or combination of impairments, including evidence that the impairment existed prior to the date of last insured. The testifying medical experts' opinions were more consistent with finding Plaintiff's impairments severe than non-severe. Plaintiff's subjective complaints were consistent with her physicians' psychiatric

3. Standard of Review - Weighing Medical Evidence Defendant notes that the ALJ may reject uncontradicted treating source opinions for clear and convincing reasons, such as those relied on in this case. The court found, for the reasons articulated in its decision, that the ALJ failed to provide clear and convincing reasons for rejecting the opinions of Plaintiff's treating physicians, such error necessitates remand for further administrative proceedings .

IT IS ORDERED that the Defendant's Motion to Alter or Amend Judgment (**Ct. Rec. 18**) is **DENIED**.

J. KELLEY ARNOLD
UNITED STATES MAGISTRATE JUDGE